

2002 WL 32901789 (R.I.A.G.)

Office of the Attorney General

State of Rhode Island

Advisory PR

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June 27, 2002

RE: Emergency 911 Uniform Telephone System

*1 Lane W. Newquist, Esquire
E 9-1-1 Uniform Emergency Telephone System
Executive Department
1951 Smith Street
Providence, Rhode Island 02911

Dear Mr. Newquist:

You are legal counsel to the Emergency 911 Uniform Telephone System, a state agency, and in this capacity, request an Access to Public Records Act ("APRA") advisory opinion. You have received a request for the release of a 9-1-1 tape relating to a police chase that occurred on the evening of June 17, 2002. The person making the request referenced the "Freedom of Information Act." You request an advisory opinion concerning "the scope of the federal Freedom of Information Act and any similar state law with respect to release of 9-1-1 call information."

We begin by distinguishing one significant difference between the Federal Freedom of Information Act and the Rhode Island Access to Public Records Act. The Federal Freedom of Information Act, codified as [5 U.S.C. § 552](#), applies only to federal agencies. See e.g., [Ferguson v. Alabama Criminal Justice Information Center](#), 962 F.Supp. 1446 (M.D. Ala. 1997). See also [Mamarella v. County of Westchester](#), 898 F.Supp. 236 (S.D. N.Y. 1995) (Federal Freedom of Information Act "applies to agencies which are defined as 'each authority of the Government of the United States'"). In contrast, Rhode Island's Access to Public Records Act applies only to state agencies. See [R.I. Gen. Laws § 38-2-2\(1\)](#) (defining "public body" to mean "any executive, legislative, regulatory, or administrative body of the state, or any political subdivision thereof"). (Emphasis added). Accordingly, since the Emergency 911 Uniform Telephone System is a state agency, only the APRA governs the public distribution of its documents, and any request made pursuant to the Federal Freedom of Information Act constitutes a legal nullity.

Moving to the merits of your request, the APRA mandates that all records maintained by a public body shall be public records unless otherwise exempt. See [R.I. Gen. Laws § 38-2-2\(4\)\(i\)](#). Among the exemptions is [R.I. Gen. Laws § 38-2-2\(4\)\(i\)\(S\)](#), which exempts from public disclosure "[r]ecords, reports, opinions, information, and statements required to be kept confidential by federal law or regulation or state law, or rule of court." Pursuant to [R.I. Gen. Laws § 39-21.1-4\(2\)](#):

"[a]ll telephone calls and telephone call transmissions received pursuant to [the 911 Emergency Telephone Number Act] and all tapes containing records of telephone calls shall remain confidential and used only for the purpose of handling emergency calls and for public safety purposes as may be need[ed] for law enforcement, fire, medical, rescue or other emergency services. The calls shall not be released to any other parties without the written consent of the person whose voice is recorded, or upon order of the court." See also [R.I. Gen. Laws § 39-21.1-17](#).

*2 Based upon the following, we opine that 911 recorded telephone calls are exempt from public disclosure pursuant to the APRA and the Rhode Island General Laws. See [R.I. Gen. Laws §§ 39-21.1-4\(2\); 39-21.1-17](#).

This advisory opinion is based upon the specific facts as related. If the facts should differ in any respect, it may affect this Department's interpretation and ultimate opinion. This advisory opinion does not abrogate any rights that the Department of the Attorney General is vested with pursuant to [R.I. Gen. Laws § 38-2-8](#), and is strictly limited to the Department of the Attorney General's interpretation of the APRA. This opinion does not address the System's responsibility under any other state law, rule, regulation, or ordinance, nor does this opinion shield the System from a complaint filed in the Superior Court by a citizen or entity pursuant to [R.I. Gen. Laws § 38-2-8](#).

We hope that this advisory opinion is of assistance as the Department of Attorney General is committed to ensuring that all public bodies comply with the Access to Public Records Act.

Very truly yours,

Michael W. Field
Special Assistant Attorney General

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